



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Overruled by W.M. 664

Honorable J. Piner Powell
County Attorney
Brown County
Brownwood, Texas

Dear Sir:

Opinion No. 0-1665

Re: Is a county judge entitled to charge the commission of one-half of 1% where the only moneys in an estate are the proceeds of Government War Risk Insurance?

We have received your letter dated November 7, 1939, wherein you request the opinion of this department upon the above stated question.

Article 3926 of the Revised Civil Statutes of Texas, 1925, reads, in part, as follows:

"The county judge shall also receive the following fees:

"1. A commission of one-half of one per cent upon the actual cash receipts of each executor, administrator, or guardian, upon the approval of the exhibits and the final settlement of the account of such executor, administrator, or guardian, but no more than one such commission shall be charged on any amount received by any said executor, administrator or guardian."

There is no limitation in the War Risk Insurance Act placed upon the fee or commission of the county judge in the administration of the proceeds of a Government War Risk Insurance Policy, and it is clear that the one-half of one per cent collected by the county judge from administrators in compliance with the above Article comes with-

in the term "fees and commissions".

According to the last preceding Federal census Brown County has a population of 26,382, and, therefore, the county judge of Brown County is on a salary basis. Inasmuch as the county judge of your county is on a salary basis, he would not be entitled to retain any fees collected by him, but must deposit them in accordance with Section 5 of Article 3912e, which reads, in part, as follows:

"It shall be the duty of all officers to charge and collect in the manner authorized by law all fees and commissions which are permitted by law to be assessed and collected for all official service performed by them. As and when such fees are collected, they shall be deposited in the Officers' Salary Fund, or fund provided in this Act."

Therefore, you are respectfully advised that it is the opinion of this department that the county judge of Brown County is entitled to charge the commission of one-half of one per cent where the only moneys in an estate are the proceeds of Government War Risk Insurance.

Trusting that the foregoing satisfactorily answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

DBD:FG

By
(Signed) D. Burle Daviss
Assistant

APPROVED Nov. 21, 1939
(Signed) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED -- Opinion Committee
By B.W.B. - Chairman